

## **REMARKS**

Claims 1, 4-6, 14, 17-19, 32-37, and 39-45 are pending in the present application. Claims 4, 18, and 35 have been amended. Claims 34 and 44 have been withdrawn. Claims 2, 3, 7-13, 15, 16, 20-31, and 38 have been previously canceled. Reconsideration of the pending claims is respectfully requested in view of the amendments to the claims and the following remarks.

### **Unexamined Claims**

Claims 1, 6, 17, 40, 42, and 45 are designated on the October 23, 2008 Office Action Summary sheet as being "subject to restriction and/or election requirement." However, the Office Action fails to address any of Claims 1, 6, 17, 40, 42, and 45 in the Detailed Action section of the Office Action. As a result, Applicant requests the opportunity to fully respond to any subsequent examination of Claims 1, 6, 17, 40, 42, and 45.

### **Claim Objections**

The October 23, 2008 Office Action Summary sheet provides that Claims 33-36, 41, and 45 have been objected to. However, no particular objections are made in the Detailed Action of the Office Action with regard to Claims 33, 34, and 45. Thus, Applicant believes that the subject matter of Claims 33, 34, and 45 is allowable and respectfully requests allowance of Claims 33, 34, and 45.

With regard to Claim 41, the Office Action alleges that "[a]ccording to Claim 41's meaning, it should be depending on claim 40." (Office Action, p. 2.) Applicant respectfully believes that both Claims 40 and 41 properly depend from Claim 1. Claims 40 and 41 both limit Claim 1 in accordance with MPEP 608.01(n). (See also 37 CFR 1.75.) Furthermore, Claims 40 and 41 are not identical in language or scope, and thus Applicant respectfully believes that both Claims 40 and 41 properly depend from Claim 1.

### **Election/Restrictions**

In the Office Action mailed October 23, 2008, some of the pending dependent claims were divided into four species:

Species IA: Claim 43

Species IIA: Claim 44

Species IB: Claim 33

Species IIB: Claim 34

The Office Action designated a single generic claim – Claim 32.

**In order to comply with the species election requirement, Applicant elects species IA (Claim 33) and IB (Claim 43) with traverse.** Applicant respectfully traverses the species election requirement because the election of species requirement in the Office Action is improper. MPEP 808.01 states:

The particular reasons relied on by the examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given.

The Office Action fails to provide any particular reason why the inventions as claimed are either independent or distinct. The Office Action merely underlines portions of Claims 43 and 44 and provides no further direction with regard to the election requirement. (See Office Action, p. 5.) Applicant respectfully believes the mere underlining of claim language fails to provide the required concise statement and that the Office Action provides nothing more than a “mere statement of conclusion.” Thus, Applicant believes that the restriction requirement provided in the Office Action is inadequate and should be withdrawn or properly presented in a subsequent Office Action in accordance with MPEP 808.01.

Furthermore, the Office Action designates Claim 32 as the only generic claim. However, Claims 43 and 44 both depend from Claim 14, which Applicant believes is a generic claim with regard to Claims 43 and 44. Applicant also believes that Claims 14, 37, and 39 are generic to Claims 33 and 34.

With Applicant's election, Claims 34 and 44 have been withdrawn. However, Applicant reserves the right to request rejoinder of Claims 34 and 44 upon allowance of any generic claim with respect to Claims 33 and 34 and Claims 43 and 44, respectively.

**Rejections under 35 U.S.C. §112, second paragraph**

In the Office Action, Claims 4, 5, 18, 19, 35, and 36 were rejected under 35 U.S.C. §112, second paragraph, for failing to further limit the respective independent claims. Claim 4 has been amended to further describe a "navigation system." Applicant believes that the amendment of Claim 4 addresses the rejections of Claims 4 and 5. Claim 18 has been amended to further describe an "adaptive route calculation module." Applicant believes that the amendment to Claim 18 addresses the rejections of Claims 18 and 19. Claim 35 has been amended to further describe a "navigation system." Applicant believes that the amendment to Claim 35 addresses the rejections of Claims 35 and 36. Accordingly, Applicant respectfully requests that the rejections of Claims 4, 5, 18, 19, 35, and 36 under 35 USC 112 be withdrawn.

**Rejections under 35 U.S.C. §102(e)**

In the Office Action, Claims 32, 37, and 39 were rejected under 35 USC 102(e) as being anticipated by Khavakh et al. (U.S. Pat. App. Pub. No. 2003/0028319).

**Claim 32**

The Office action alleges that Khavakh anticipates Claim 32. However, Khavakh fails to teach or suggest at least a processor configured to "receive a user modification of the first route where the user modification includes selection of at least one map element" as described by Claim 32.

Khavakh discloses a route determination routine that may be used in a navigation system to determine a route from an origin point to a destination point. (See Khavakh, para. [0040].) The Office Action alleges that Khavakh teaches a navigation system comprising a plurality of instructions executable by a processor to "receive a user modification (see Khavakh et al., FIG. 1, ref. "USER INTERFACE 31"), of the first route where the user modification includes a selection of at least one map element (i.e.,

selecting "SHORTEST DISTANCE" OR "SHORTEST TRAVEL TIME")].]" (Office Action, p. 4.) None of the portions of Khavakh cited by the Office Action or any other portions of Khavakh teach or suggest a processor caused to "receive a user modification of the first route where the user modification includes selection of at least one map element."

The Office Action relies upon selection of "shortest distance" or "shortest travel time" considerations for calculation of a route in Khavakh for support. (See Khavakh, para. [0045], [0092].) However, neither of these considerations are "user modifications" that include "a selection of at least one map element." Calculating a route based on "shortest distance" or "shortest travel time" considerations in Khavakh is unrelated to selecting an element on a map. Khavakh contains no teaching or suggestion of "where a user modification includes selection of at least one map element." Thus, Khavakh fails to anticipate Claim 32 for at least these reasons.

Furthermore, the Office Action wholly disregards elements of Claim 32. For example, the Office Action fails to show where Khavakh teaches or suggests a processor caused to "calculate a second route to the trip destination as a function of the user modification." Accordingly, it is respectfully requested that the rejection of Claim 32 be withdrawn as improper. (See MPEP 707 and 37 CFR §1.104(b) and 37 CFR §1.104(c).)

For at least these reasons, Applicant respectfully believes that Khavakh fails to anticipate Claim 32 and that the rejection of Claim 32 is improper. As a result, Applicant respectfully requests that the rejection of Claim 32 be withdrawn.

### Claim 37

The Office Action alleges that Khavakh anticipates Claim 37. Claim 37 describes:

an adaptive route calculation module operable to receive a user modification of the first route from the input device, where the user modification includes selection of at least one map element in the road network map, where a second route is calculated by the adaptive route calculation module as a function of the user modification.

The Office Action alleges that Khavakh describes:

an adaptive route calculation module operable to receive a user modification of the first route from the input device, where the user modification includes selection of at least one map element in the road network map (see Khavakh et al. FIG. 4, ref. 40, 50), where a second route is calculated by the adaptive route calculation module as a function of the user modification (i.e., a rerouting calculation, see Khavakh et al., para. [0187]-[0188], [0193]).]

(Office Action, p. 4.)

As previously discussed with regard to Claim 32, Khavakh fails to teach or suggest "an adaptive route calculation module operable to receive a user modification of the first route from the input device, where the user modification includes selection of at least one map element in the road network map." Furthermore, Khavakh fails to teach or suggest "where a second route is calculated by the adaptive route calculation module as a function of the user modification."

Khavakh describes a route calculation routine that may be used with a navigation system to calculate a route between an origin point and a destination point. Khavakh also describes a rerouting calculation that is performed when the vehicle is determined to have diverted from a calculated route. (See Khavakh, para. [0187]-[0190].) However, the paragraphs of Khavakh cited by the Office Action do not describe the rerouting being performed based on a user modification that "includes selection of at least one map element in the road network map" as described in Claim 37. Instead, Khavakh describes a situation in which a route has been calculated to a destination. (See Khavakh, para. [0187].) As a vehicle diverts from the calculated route to the destination, the navigation system may query a user to determine if the user wants a new route calculated to the destination based on the diversion. (See Khavakh, para. [0188].) However, the new route is not calculated based on a "user modification that includes selection of at least one map element in the road network map." Khavakh fails to teach or suggest that any rerouting calculations are performed based on a user modification involving selection of a road network map element.

For at least these reasons, Khavakh fails to anticipate Claim 37. As a result, Applicant respectfully requests that the rejection of Claim 37 be withdrawn.

Claim 39

For at least the reasons discussed with regard to Claim 37, Khavakh fails to teach or suggest:

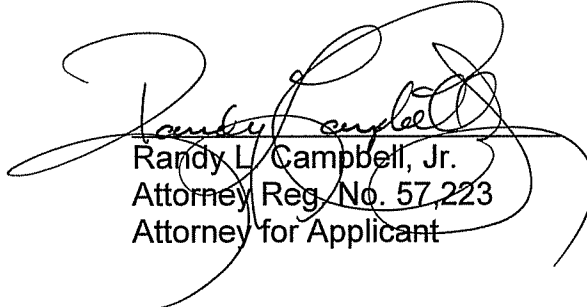
an adaptive route calculation module executable by the navigation server to allow the user to enter a user modification of the first route with the input device, where the user modification includes selection of at least one map element in the road network map, where a second route to the destination is calculated with the adaptive route calculation module as a function of the user modification

as described by Claim 39. As a result, Khavakh fails to anticipate Claim 39. As such, Applicant respectfully requests that the rejection of Claim 39 be withdrawn.

Conclusion

With this amendment and response, the present pending claims of this application are allowable, and Applicant respectfully requests the Examiner to issue a Notice of Allowance for this application. Should the Examiner deem a telephone conference to be beneficial in expediting allowance/examination of this application, the Examiner is invited to call the undersigned attorney at the telephone number listed below.

Respectfully submitted,



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